



0000033035

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JIM IRVIN
COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

APR 01 1999

DOCKETED BY

sd

IN THE MATTER OF THE APPLICATION OF
FRONTIER LOCAL SERVICES, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO OFFER FACILITIES-BASED
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03658A-98-0653

DECISION NO. 61622

OPINION AND ORDER

DATE OF HEARING: March 18, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Barbara M. Behun

APPEARANCES: Mr. Thomas H. Campbell and Ms. Leanne Dodds-Eastman,
LEWIS AND ROCA, L.L.P., on behalf of Frontier Local
Services, Inc.;

Ms. Theresa Dwyer and Ms. Kim S. Alvarado, FENNEMORE
CRAIG, P.C., on behalf of U S WEST Communications, Inc.,
Intervenor, and

Mr. Paul A. Bullis, Chief Counsel, Legal Division, on behalf of
the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. Frontier Local Services, Inc. ("FLSI" or "Applicant") is a Michigan corporation
authorized to do business in the State of Arizona since 1998.

2. On November 10, 1998, FLSI filed an application with Docket Control of the
Commission to provide facilities-based local exchange telecommunications services throughout
Arizona, and a petition to have its services be classified as competitive.

3. On November 13, 1998, FLSI filed a certificate of providing notice of the application
to interested parties.

4. On December 18, 1998, FLSI filed affidavits of publication.

1 5. U S WEST Communications, Inc. ("U S WEST") filed a request to intervene, wh
2 was approved by the Commission on December 29, 1998.

3 6. On February 12, 1999, the Commission's Utilities Division Staff ("Staff") filed its
4 Staff Report, which recommended approval of the application and included a number of additional
5 recommendations.

6 7. On February 23, 1999, the Commission set the application for hearing commencing on
7 March 18, 1999.

8 8. On March 11, 1999, U S WEST filed comments requesting that FLSI's Certificate be
9 geographically limited to the areas that it can serve and intends to serve in the near future; that the
10 Commission should specify that FLSI is a public service corporation and is required to operate as a
11 carrier of last resort; and that FLSI should be subject to fair rate of return and rate base requirements.

12 9. The hearing was held as scheduled on March 18, 1999, and Applicant and Staff
13 presented evidence. U S WEST cross-examined witnesses, but did not present any evidence.

14 10. FLSI stated its intention to provide services through its own and leased facilities.

15 11. FLSI anticipated providing initial service in the Phoenix metropolitan area, expanding
16 into U S WEST's local calling area, and ultimately providing service statewide.

17 12. FLSI stated that it has negotiated an interconnection agreement with U S WEST.

18 13. FLSI stated that it currently provides facilities-based services in twelve states.

19 14. The management of FLSI has several years of experience in the telecommunications
20 industry.

21 15. Applicant has the technical capability to provide the services it proposed in its
22 application.

23 16. Currently there are several incumbent providers of local exchange services in the
24 service territory requested by Applicant, and at least twelve other entities have been authorized to
25 provide competitive local exchange services in all or portions of that territory.

26 17. Applicant filed illustrative tariffs with its application.

27 18. Staff recommended that FLSI's application for a Certificate to provide local excha.
28

1 telecommunications services be granted.

2 19. Staff further recommended that:

- 3 (a) consistent with the Commission's previous Decisions granting Certificates to
4 new entrant local exchange companies, unless Staff files comments indicating
5 that the rates and charges are unjust or unreasonable pursuant to A.A.C. R14-2-
6 1105(C) and R14-2-1104(D), the rates and charges submitted will be effective
7 thirty days after filing with the Commission;
- 8 (b) FLSI continue to attempt to negotiate interconnection arrangements with the
9 companies with which it must interconnect, pursuant to Commission Rule,
10 Federal Law and Federal Rule;
- 11 (c) FLSI indicate how it plans to have its customers' telephone numbers included
12 in the incumbent's directories and directory assistance databases before it
13 begins providing local exchange service;
- 14 (d) FLSI pursue permanent number portability arrangements with other local
15 exchange companies pursuant to Commission Rule, Federal Law and Federal
16 Rule;
- 17 (e) FLSI agree to abide by and participate in the AUSF mechanism covered by
18 Decision No. 59623 (April 24, 1996);
- 19 (f) FLSI abide by the quality of service standards that were approved by the
20 Commission for U S WEST in Docket No. T-01051B-93-0183;
- 21 (g) in areas where FLSI is the sole provider of local exchange service facilities,
22 FLSI will provide customers with access to alternative providers of service
23 pursuant to the provisions of Commission Rule, Federal Law and Federal Rule;
- 24 (h) FLSI be required to certify, through the 911 service provider in the area in
25 which it intends to provide service, that all issues associated with the provision
26 of 911 service have been resolved with the emergency service providers before
27 it begins to provide local exchange service;
- 28 (i) FLSI be required to abide by all the Commission Decisions and policies
regarding CLASS services;
- (j) FLSI be required to certify that all notification requirements have been
completed prior to a final determination in this proceeding;
- (k) in order to provide Staff with current information on the degree that facilities-
based competition exists in any geographic area within the State of Arizona
and to allow Staff to respond to consumer inquiries regarding the availability
of alternative service providers, FLSI provide maps with sufficient detail to
identify those areas where FLSI provides local exchange service. In the
metropolitan areas, the boundaries would generally follow street locations.
The maps should identify those areas where the company intends to provide
facilities-based services and those areas where the company plans to resell
services of an incumbent local exchange company. Also, FLSI should indicate
in the maps provided, areas where service incremental charges (e.g. rural zone
increment charges, etc.) will apply;

1 (l) FLSI be required to abide by all Commission rules and regulations.

2 (m) FLSI be subject to the Commission's rules governing interconnection and
3 unbundling and the Federal Communications Act of 1996, and the rules
promulgated thereunder; and

4 (n) in the event that FLSI provides essential services or facilities that potential
5 competitors need in order to provide their services, FLSI should be required to
6 offer those facilities or services to these providers on non-discriminatory terms
and conditions pursuant to State Rule, Federal Law and Federal Rule.

7 20. Staff stated that FLSI should be required to work cooperatively with local
8 governments, public safety agencies, telephone companies, the National Emergency Number
9 Association and all other concerned parties to establish a systematic process in the development of a
10 universal emergency telephone number system.

11 21. According to Staff, FLSI submitted a statement from Frontier Corporation
12 ("Frontier"), its parent company, which expresses Frontier's intent to offer financial support to FLSI.
13 Frontier's 1997 Annual Report, submitted on behalf of FLSI, indicates consolidated income of \$54.6
14 million on consolidated revenues of \$2.35 billion. Frontier had year-end 1997 consolidated assets of
\$2.5 billion and consolidated shareowner's equity of \$970 million.

15 22. Staff stated that Frontier's financial background is indicative of its ability to raise the
16 capital it may need to expand FLSI's local network in Arizona.

17 23. FLSI asserted that it complied with the notice requirement listed in Staff's
18 recommendations.

19 24. FLSI requested that U S WEST's exchange area maps be incorporated in this docket
20 to satisfy Staff's request for identification of the areas where FLSI provides local exchange service.
21 FLSI agreed to provide an initial list of the U S WEST's exchanges where service will be launched.

22 25. Staff had concerns whether FLSI's listing would provide information in sufficient
23 detail to illustrate the availability of alternative service providers.

24 26. FLSI agreed to meet with Staff and provide information sufficient to satisfy Staff's
25 requirements.

26 27. It is appropriate to classify FLSI's local exchange services as competitive.

27 28. Any interconnection agreement entered into by FLSI should be submitted to
28

1 Commission for approval.

2 **CONCLUSIONS OF LAW**

3 1. FLSI is a public service corporation within the meaning of Article XV of the Arizona
4 Constitution.

5 2. The Commission has jurisdiction over Applicant and the subject matter of the
6 application.

7 3. Notice of the application was given in accordance with the law.

8 4. A.A.C. R14-2-1105 allows a telecommunications company to file an application for a
9 Certificate to provide competitive telecommunications services.

10 5. Pursuant to Article XV of the Arizona Constitution as well as the Competitive
11 Telecommunications Service Rules, A.A.C. R14-2-1101, et seq. ("Competitive Rules"), it is in the
12 public interest for Applicant to provide the telecommunications services set forth in its application.

13 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide
14 facilities-based local exchange services.

15 7. Pursuant to A.A.C. R14-2-1108, the telecommunications services that Applicant
16 intends to provide are competitive within Arizona.

17 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
18 it is just and reasonable and in the public interest for Applicant to establish rates and charges which
19 are not less than the Applicant's total service long-run incremental costs of providing the competitive
20 services approved herein.

21 9. Staff's recommendations, as set forth in Findings of Fact Nos. 19 and 20, are
22 reasonable and should be adopted, in addition to further Orders below.

23 10. The scope of the Certificate and method for setting rates and charges are in
24 compliance with legal precedent and law.

25 **ORDER**

26 IT IS THEREFORE ORDERED that the application of Frontier Local Services, Inc. for a
27 Certificate to provide facilities-based local exchange services throughout the State of Arizona shall
28

be, and is hereby, granted.

IT IS FURTHER ORDERED that the petition of Frontier Local Services, Inc. to determine that its local exchange telecommunications services are competitive is hereby approved.

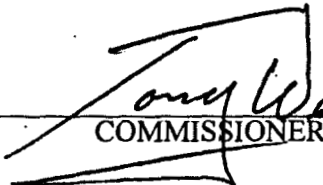
IT IS FURTHER ORDERED that Frontier Local Services, Inc. shall comply with Staff's recommendations contained within Findings of Fact Nos. 19 and 20, except that the Director of the Utilities Division may approve maps or other means to track the availability of alternative service providers.

IT IS FURTHER ORDERED that as soon as practical after execution, Frontier Local Services, Inc. shall submit any interconnection agreement entered into for approval by the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


COMMISSIONER-CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 1 day of April, 1999.


STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

DISSENT
BMB:bbs

1 SERVICE LIST FOR:

FRONTIER LOCAL SERVICES, INC.

2 DOCKET NO.

T-03658A-98-0653

3 Thomas H. Campbell
LEWIS AND ROCA

4 40 North Central Avenue
Phoenix, Arizona 85004

5 Attorneys for Frontier Local Services, Inc.

6 Timothy Berg
FENNEMORE CRAIG PC

7 3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

8 Attorneys for U S WEST Communications, Inc.

9 Paul Bullis, Chief Counsel
Legal Division

10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street

11 Phoenix, Arizona 85007

12 Director, Utilities Division
ARIZONA CORPORATION COMMISSION

13 1200 West Washington Street
Phoenix, Arizona 85007

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28